

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION**

**MELISSA SAULSBERY,**

**Plaintiff,**

**v.**

**MARK TWAIN WATER ZONE, LLC  
and COLLIN NIMSGERN,**

**Defendants.**

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**Case No. 2:19-CV-00074-NCC**

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff Melissa Saulsbery’s (“Plaintiff”) Motion to Remand Case to Missouri Circuit Court (Doc. 8). In her Motion, Plaintiff asserts that Defendant Mark Twain Water Zone, LLC (“MTWZ”) improperly removed this action to federal court without the consent of Co-Defendant Collin Nimsgern (“Nimsgern”) (*Id.*). Plaintiff argues that contrary to MTWZ’s assertion in its Notice of Removal that Nimsgern had not been served at the time of removal and that his consent was not required, Nimsgern was served with process prior to removal and his consent is therefore required (*Id.*). In support of her motion, Plaintiff provides the Court with an Affidavit of Personal Service indicating the Nimsgern was served with the petition on September 2, 2019, the day before MTWZ filed its Notice of Removal (Doc. 8-1). MTWZ responded to Plaintiff’s motion, providing Nimsgern’s consent pursuant to 28 U.S.C. § 1446(b)(2)(A) (Doc. 10 & Doc. 10-1). Plaintiff did not subsequently file a reply in support of her motion and the time to do so has elapsed. *See* E.D. Mo. L.R. 4.01.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff Melissa Saulsbery's Motion to Remand Case to Missouri Circuit Court (Doc. 8) is **DENIED, without prejudice, as moot.**

Dated this 18th day of October, 2019.

/s/ Noelle C. Collins  
NOELLE C. COLLINS  
UNITED STATES MAGISTRATE JUDGE